

WAC 222-46-030 Notice to comply. If a violation, a deviation, material damage or potential for material damage to a public resource has occurred and the department determines that a stop work order is unnecessary, then the department shall issue and serve upon the operator and/or landowner a notice.

(1) The notice shall clearly set forth:

(a) **The specific** nature, extent, and time of failure to comply with the approved application; or identifying the damage or potential damage; and/or

(b) The relevant provisions of the Forest Practices Act or of the forest practices rules relating thereto;

(c) **The right** of the operator, landowner, or timber owner to a hearing before the department; and

(d) **The specific** course of action ordered by the department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to public resources which resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practices activities but has not resulted from any violation, unauthorized deviation, or negligence.

(2) **Local governmental entity conditions.** If the notice to comply involves a condition imposed pursuant to WAC 222-20-040(3), then the specific course of action ordered by the department shall include a requirement that the operator obtain approval of the local governmental entity of the action to be taken.

(3) **The department** shall mail a copy of the notice to comply to the forest landowner and the timber owner at the addresses shown on the application, showing the date of service upon the operator. The department shall also mail a copy to the local governmental entity if a condition imposed pursuant to WAC 222-20-040(3) is involved.

(4) **Such notice to comply shall become a final order** of the department: Provided, That no direct appeal to the appeals board will be allowed from such final order. Such operator shall undertake the course of action so ordered by the department unless, within fifteen days after the date of service of such notice to comply, the operator, forest landowner, or timber owner, shall request the department in writing to schedule a hearing. If so requested, the department shall schedule a hearing on a date not more than twenty days after receiving such request. The local governmental entity shall participate in the hearing if a condition imposed pursuant to WAC 222-20-040(3) is involved. Within ten days after such hearing, the department shall issue a final order either withdrawing its notice to comply or clearly setting forth the specific course of action to be followed by such operator. Such operator shall undertake the course of action so ordered by the department unless within thirty days after the date of receipt of such final order, the operator, forest landowner, or timber owner appeals such final order to the appeals board. No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to public resources which occurs more than one year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules: Provided, That this provision shall not relieve the forest landowner from any obligation to comply with forest practices rules pertaining to providing continuing road maintenance. No action to recover damages shall be taken un-

der this section more than two years after the date the damage involved occurs.

[Statutory Authority: RCW 76.09.040. WSR 10-23-077, § 222-46-030, filed 11/15/10, effective 12/16/10; WSR 08-24-011, § 222-46-030, filed 11/21/08, effective 12/22/08. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). WSR 01-12-042, § 222-46-030, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. WSR 97-24-091, § 222-46-030, filed 12/3/97, effective 1/3/98. Statutory Authority: RCW 76.09.040, 76.09.170 and chapter 34.05 RCW. WSR 94-01-134, § 222-46-030, filed 12/20/93, effective 1/1/94. Statutory Authority: RCW 76.09.040, 76.09.050 and 34.05.350. WSR 91-23-052, § 222-46-030, filed 11/15/91, effective 12/16/91; Order 263, § 222-46-030, filed 6/16/76.]